

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.4344 OF 2005

Mahesh Jalan and others).. Petitioners

Versus

R.M.Seth and others).. Respondents

Mr.G.S.Godbole for the Petitioners.

Mr.Aspi Chinoy i/b.Mr.A.M.Gandhi for Respondent No.1.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 12TH JULY 2005

P.C.:

. The Petitioners, who are the Obstructionists, have challenged the findings of the Appellate Court on the issue as to whether they are entitled to remain in possession of the suit premises. The ground made out by the Petitioners is that they were sub-tenants of the original Defendant, Respondent No.6 herein since the year 1967 and, therefore, were protected tenants in view of the 1973 amendment to the Rent Act.. The facts, as seen from the order of the Appellate Court, indicate that the original Defendant i.e. Respondent No.6 herein had allowed the father of Petitioner No.1 to use the flat as one of his perquisites while he was Director of the Defendant Company. The Respondent No.1, it appears married another lady in the year 1962 and was residing

elsewhere. It is the case of the Petitioners that since then they have been residing in the suit premises as sub-tenants.

2. The Appellate Court, in my view, has rightly held that the Petitioners were not able to prove that they were in fact sub-tenants of the Defendant. The Appellate Court has also rightly considered the fact that the rent receipts which were purported to be produced have not been proved by the Petitioners and that the Petitioners had not shown any evidence that there was any sub-tenancy in existence. In fact, in the Written Statement filed in 1976 by the original Defendant, it is pleaded that Mohanlal Jalan was using the suit premises as a Director of Respondent No.6. There is a denial that the suit premises had been sub-let or given on leave and licence or that Mohanlal Jalan had parted with possession of the suit premises.

3. In view of these findings of the Appellate Court, I see no reason to interfere with the order of the Appellate Court. Hence, dismissed.